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May 24, 2024

BY CM/ECF

The Honorable Richard G. Andrews
J. Caleb Boggs Federal Building
844 N. King Street
Unit 9
Room 6325
Wilmington, DE 19801-3555

Re: *Epic Tech, LLC v. VGW Luckyland, Inc. et al.*, C.A. No. 23-118-RGA

Dear Judge Andrews:

Pursuant to this Court's April 26, 2024, Order (D.I. 29), Plaintiff Epic Tech, LLC ("Epic Tech" or "Plaintiff") submits the following status report regarding the above-captioned matter.

In its April 26, 2024, Order (D.I. 28), this Court granted leave for Epic Tech to conduct limited non-party discovery. Specifically, Epic Tech was authorized to issue a non-party subpoena (the "Subpoena") pursuant to Federal Rule of Civil Procedure 45 to the Fifth Third Bank ("Fifth Third") requesting that Fifth Third provide documents identifying the identity and/or accounts associated with a purchase made by Plaintiff's investigator. It was believed that once this information was obtained from Fifth Third, Plaintiff would be able to identify the bank(s) used by Defendants in operation of their website, and that those entities could be subpoenaed to provide revenue information sufficient to support a motion for default judgement by Epic Tech.

On or about May 2, 2024, the Subpoena was served on Fifth Third's registered agent in Columbus, Ohio. *See* Exhibit A, Proof of Service.

On April 26, 2024, Plaintiff's counsel was contacted by an attorney representing the defendants stating that the defendants had only recently learned about the litigation and were in the process of obtaining counsel in Delaware. On May 9, 2024, Plaintiff's Counsel Kelly O. Wallace ("Wallace") made Plaintiff's initial settlement demand to counsel for Defendants. Defendants have rejected that offer and, on May 15, 2024, filed a Motion to Set Aside Default (D.I. 31). Since that date, Wallace has been engaged in the review and preparation of Plaintiff's opposition to Defendant's Motion to Set Aside Default.

Plaintiff's counsel consented to extend Fifth Third's response to Plaintiff's Subpoena to May 24, 2024 and is presently awaiting the witness's response.

Plaintiff's counsel further submits a representation of how many hours spent on this case in the preceding two weeks as follows:



May 24, 2024
Page 2

Lead Counsel	26.5 Hours
DE Counsel	3.4 Hours

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "John D. Simmons".

John D. Simmons (#5996)